

REMARKS

Claims 3-5, 9-11, 15-17, 19, 21 and 23-29 are all the claims pending in the present application.

I. Response to Rejection under 35 U.S.C. § 103(a)

Claims 3-5, 9-11, 15-17, 19, 21 and 23-29 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,045,322 to Blank et al. in view of U.S. Patent No. 5,498,650 to Flexman et al. Applicants respectfully traverse the rejection for the reasons of record and the following additional reasons.

(a) In response to Applicants' argument that Flexman et al. is nonanalogous art, the Office Action asserts that "Flexman et al. teach antimicrobial agents for use with absorbent materials" (page 2, item 3 of the Office Action).

There is, however, no teaching to be found in Flexman et al. supporting this assertion. Specifically, Flexman et al. relates to the manufacture of packaging films, filters, foamed products, injection molded products and shaped articles. Moreover, the polymers and copolymers mentioned in Flexman et al. as suitable candidates for the manufacture of packaging films, foamed products, etc., do not have the necessary alcohol- or (partially neutralized) carboxy-groups to act as a superabsorber.

Even if, *arguendo*, an antimicrobial effect may be expected when the lactides described by Flexman et al. are combined with the superabsorber of Blank et al., still a motivation is lacking for a person skilled in the art to change a particular appropriate non-leaching antimicrobial superabsorbing composition, for example, the one disclosed by Blank et al., into another antimicrobial superabsorbing system.

(b) The Office Action asserts that Applicants argue that "Blank discloses additional agents and does not disclose an independently functioning antimicrobial agent..." (page 2, last paragraph of the Office Action).

Applicants wish to point out that Applicants did not state that "Blank discloses additional agents." Applicants wish to emphasize that Blank et al. discloses antimicrobial odor-reducing superabsorbent compositions. Blank et al. explicitly teaches against the use of non-chemically-bound antimicrobial agents (column 2, lines 50-61). The non-leaching antimicrobial activity is the strength of Blank et al.'s invention. Whether the claims being part of the present application include additional agents or not, is immaterial as to what a person skilled in the art would or would not have done on the basis of Blank et al.'s invention. Applicants intended to point out that by replacing the chemically bound antimicrobial silane by a free lactide-based compound or by adding a free lactide-based compound to the composition disclosed by Blank et al., the invention underlying Blank et al. would be unsatisfactory and "destroyed."

(c) There are several reasons why a person skilled in the art would not contemplate combining the disclosures of Blank et al. and Flexman et al.

Both the present application and Blank et al. disclose antimicrobial superabsorbing compositions for the reduction of odor and control of bacterial growth. Although both disclosures use different means to realize reduction of odor and control of bacterial growth, there is no apparent reason to change the composition of Blank et al.

Odorous amines in human excretions are formed by bacteria converting urea into ammonia. It is the ammonia that causes the odor. Blank et al. allegedly realizes reduction of odor and simultaneously controls diaper rash by suppression of bacteria attacking urinary urea (column 3, lines 48-53). Blank et al. discloses chemically bound silicone quaternary ammonium salts as antimicrobial agents (column 1, lines 32-66; column 2, lines 42-51).

The disclosure of Blank et al. alleges to reduce the odor by attacking the bacteria producing the odorous components. On the other hand, the present application reduces the odor by capturing the volatile odorous components that already have been formed in the superabsorber. Starting from the disclosure of Blank et al., to arrive at the invention of the present application, a means must be found to retain the volatile odorous component in the superabsorber. The disclosure of Flexman et al. does not contribute to the solution of this problem, since it only teaches alternative antimicrobial agents. Moreover, Flexman et al. does not teach the use of lactic-acid based components to protonate volatile alkaline components.

In view of the foregoing, Applicants respectfully that the present claims are patentable over Blank et al. in view of Flexman et al., and thus the rejection should be withdrawn.

II. Conclusion

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

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